THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.NO.27648 OF 2005

Dt.27.12.2005

Between:

P.Chandrakala

… Petitioner

And

The Joint Collector, Chittoor, Chittoor

District and 2 others. … Respondents

ORDER:

Petitioner questions the order of the 2nd respondent vide his proceeding in Roc.C.3581/05 dated 9.12.2005 placing the authorization of the petitioner in respect of Kuntipudi Village, Srikalahasti Mandal, Chittoor District, under suspension as illegal and arbitrary.

It is stated that the petitioner was appointed as fair price shop dealer of Kuntipudi village, Srikalahasti Mandal, Krishna District in the year 1988 by the Revenue Divisional Officer, Tirupati and from the date of appointment she has been distributing essential commodities as per the authorization, which is valid up to 31.3.2006. It is further stated that the petitioner is also permitted to supply kerosene and rice to the cardholders under Food Assurance Scheme to the Cyclone affected

persons in the month of December, 2005. It is further stated that when the respondents refused to supply essential commodities without assigning any reasons, she filed W.P.No.26092 of 2005 and the same was disposed of by this Court on 7.12.2005 directing the respondents to supply essential commodities as long as the authorization of the petitioner is subsisting. Thereafter, the 2nd respondent vide order dated 9.12.2005 suspended the authorization of the petitioner under Clause 5(4) of the A.P.State Public Distribution System Control Order, 2001 on the ground that the petitioner is not residing in the village and one R.Venkataswamy Naidu is running the said fair price shop as benami and he is not distributing the stocks properly and selling the essential commodities on high rates.

Heard the learned counsel for the petitioner as well as the learned Government Pleader for Civil Supplies on behalf of the respondents.

It is the case of the petitioner that in fact R.Venkataswamy Naidu is not at all running the shop and the family of the petitioner consists of father-in-law, Venkatasubba Naidu, mother-in-law, Ranamma, her husband, Sudhakara Naidu and sister-in-law Prabhavati. It is the case of the petitioner that she never permitted to run the shop through benami and she never sold the essential commodities at higher price and she never violated any of the conditions.

Having regard to the facts and circumstances of the case, I am of the opinion that suspension pending enquiry may not be made in a routine manner unless there are grave and serious charges preventing the dealer for further misuse of the essential commodities. The authorization of the petitioner has been suspended pending enquiry under clause 5(4) of the said Control Order. Suspension pending enquiry is not specifically provided for. However, it can be taken as an implied or ancillary power vested in the authority empowered to exercise the power of cancellation or suspension as envisaged by sub-clause (4) of Clause 5. I am of the opinion that such power cannot be invoked unless there are serious and grave charges. In the instant case, no specific allegations have been made

without making any allegations.

For the aforesaid reasons, the impugned order of suspension pending enquiry passed by the 2nd respondent dated 9.12.2005 is set aside and the 2nd respondent is directed to frame charges by issuing a show cause notice and pass appropriate orders in accordance with law. Till then, the petitioner shall be permitted to distribute essential commodities to the cardholders.

The writ petition is disposed of accordingly. No costs.

(V.ESWARAIAH, J.)

27.12.2005

Note: Issue copy within three days

B.O.

kpr